

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 97-101-C- ORDER NO. 97-640

July 31, 1997

In RE: Entry of BellSouth) ORDER ADDRESSING STATEMENT
Telecommunications, Inc.,) AND COMPLIANCE WITH SECTION
into InterLATA Toll Market) 271 OF THE TELECOMMUNICATIONS
	ACT OF 1996

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (the "Commission") in connection with (1) a request by BellSouth Telecommunications, Inc. ("BST") under Section 252(f) of the Telecommunications Act of 1996 (the "Act") that the Commission approve BST's Statement of Generally Available Terms and Conditions (the "Statement"); and (2) the Commission's review of BST's preapplication compliance with Section 271 of the Act.

By its request, BST asks the Commission (1) to issue an order under Section 252(f) approving its Statement and; (2) in its consultative role under Section 271(d)(2)(B), to find that BST's Statement satisfies the 14-point competitive checklist in 47 U.S.C. § 271(c)(2)(B) and that BellSouth Long Distance, Inc.'s

("BSLD") entry into the interLATA long distance market in South Carolina is in the public interest.

In Order No. 97-223, the Commission established a docket to consider BST's entry into the interLATA market pursuant to Section 271 of the Act. Pursuant to this Order, BST filed on April 1, 1997, a Notice of Intent to File An Application Under Section 271 of the Act with the Federal Communications Commission for authority to provide in region InterLATA services in South Carolina on or after August 1, 1997. In connection with and in support of its notice, BST filed the testimony of Alphonso Varner and Robert Scheye. BSLD filed the testimony of James C. Harralson, Dr. Michael J. Raimondi, Dr. Frank Hefner and Dr. William E. Taylor. Petitions to Intervene were filed by Sprint Communications Co., L.P. ("Sprint"), LCI International, Inc. ("LCI"), South Carolina Cable Television Association ("SCCTA"), MCI Telecommunications Corporation ("MCI"), Communication Workers of America, ("CWA"), AT&T Communications of the Southern States, Inc. ("AT&T"), The Consumer Advocate for the State of South Carolina ("Consumer Advocate"), American Communications Services Inc. ("ACSI"), South Carolina Competitive Carriers Association ("SCCCA"), and South Carolina Telephone Coalition ("SCTC"). In Order No. 97-465, the Commission denied the petition of Vanguard Cellular Systems, Inc. to intervene out of time. On May 30, 1997, BST filed its statement of Generally Available Terms and Conditions ("Statement" or "SGAT"). In Order No. 97-530, the

Commission denied MCI's Petition for a Declaratory Order stating that Section 271(d)(2)(B) of the Act, (Track "B") was unavailable to BST and that BST could not proceed under Section 271 (d)(2)(A) of the Act (Track "A"). In Order No. 97-551, the Commission held that BSLD was a party of record to this proceeding with the right to cross-examine witnesses for all parties with the exception of BST witnesses.

A public hearing in this docket was held in the Commission's hearing room, beginning on July 7, 1997, with the Honorable Guy Butler presiding. BST was represented by Harry M. Lightsey, III, William F. Austin, William J. Ellenberg, II, and Edward L. Rankin, III. BST presented the testimony of Alphonso Varner, Gloria Calhoun, William Stacy, Keith Milner, Jane Sosebee and Robert Scheye. BSLD was represented by Dwight F. Drake and Kevin A. Hall. BSLD presented the testimony of James G. Harralson, Dr. Mike J. Raimondi, Dr. Frank Hefner, and Dr. William E. Taylor.

Sprint was represented by William R. Atkinson and Darra W. Cothran. Sprint presented the testimony of Melissa Closz and David Stahly. LCI International was represented by Frank R. Ellerbee, III. LCI presented no witnesses. MCI was represented by John M. S. Hoefer and Marsha A. Ward. AT&T Communications was represented by Francis P. Mood, Kenneth McNeely, Steve Matthews and Michael Hopkins. AT&T presented the testimony of John Hamman and Jay Bradbury. MCI and AT&T jointly presented the testimony of Don J. Wood and Dr. Thomas R. Beard. The SCCTA was

represented by Mitchell Willoughby and Craig Collins. SCCTA presented no witnesses. The CWA was represented by Herbert Buhl. The CWA presented the testimony of Jerry D. Keene. The Consumer Advocate was represented by Elliott F. Elam. The Consumer Advocate presented the testimony of Allen G. Buckalew. ACSI was represented by Russell B. Shetterly, Jr. ACSI presented the testimony of James C. Falvey. Mr. Falvey adopted the pre-filed testimony of Riley M. Murphy. The SCTC was represented by John Bowen. SCTC presented no witnesses. The SCCCA was represented by Frank R. Ellerbee, III. AT&T, SCCCA & MCI jointly presented the testimony of Joseph Gillan. The Commission's Staff was represented by F. David Butler.

II. SUMMARY OF COMMISSION'S FINDINGS

As discussed below in more detail, the Commission finds that BST's Statement makes available to competitive local exchange carriers ("CLECs") in South Carolina each of the functions, capabilities, and services that the Act requires in order to allow them to enter the local exchange market. These functions, capabilities and services--and their associated rates--that BST must make available pursuant to Sections 251 and 252(d) of the Act are identical to the items contained in the 14-point competitive checklist in Section 271. Therefore, in finding that BST's Statement, as modified, satisfies BST's obligations under Sections 251 and 252(d), the Commission simultaneously concludes that the Statement meets the competitive checklist in Section

271(c)(2)(B). On July 18, 1997, the United States Court of Appeals for the Eighth Judicial Circuit released its opinion reviewing the interconnection rules of the FCC. See Iowa Utilities Board v. FCC, Order No. 96-3321 (July 18, 1997). As a result of the developments in this area and the possibility of further changes, the Commission finds that language should be added to the Statement which provides that the Statement will be subject to revision to the extent necessary to comply with any final legislative, regulatory or judicial orders or rules that affect the rights and obligations created by the Statement. Further, the Commission finds that BSLD's entry into the interLATA market in South Carolina will be in the public interest. Thus, when consulted by the Federal Communications Commission ("FCC") upon BellSouth's application for authority to enter the interLATA market in South Carolina, the Commission will advise the FCC that BST is in compliance with the requirements of the competitive checklist and that BSLD's entry into the interLATA market is in the public interest.

The Act requires only that BST make available the functions, capabilities and services in compliance with Section 251 and 252(d); it does not require that they be implemented on any particular scale or in any particular quantity. Although not all of the functions, capabilities and services in the Statement have been requested by CLECs for use in South Carolina, there is ample evidence in this record that BST has actually provided each item

described in the 14-point competitive checklist in its nine-state region. BST has further demonstrated that it is functionally able to provide the same items in South Carolina when ordered by a CLEC.

The Commission approves BST's Statement, as modified, so that BSLD may take the first step in the process it must follow to obtain interLATA authority--the filing of an application with the FCC. There is no serious dispute that BSLD's entry into the interLATA market in South Carolina will bring significant consumer benefits to that market. BSLD testified that it has filed a proposed tariff with initial basic MTS rates will be at least 5% lower than the corresponding rates of the largest interexchange carrier. The Commission reasonably concludes that long distance competitors will be compelled to respond with lower rates of their own.

Moreover, BST's entry will release the interexchange carriers from the current prohibition under the Act against the joint packaging of local and long distance service. BellSouth is also required under the Act to implement 1+ intraLATA toll dialing simultaneously with its entry into interLATA long distance. These requirements will free all competitors in South Carolina to finally offer the simplified "one-stop" shopping that customers want. BSLD's entry into the interLATA market will give BSLD's customers the same opportunity as customers of other South Carolina local telephone companies (i.e., GTE in Myrtle Beach and

Sumter; Sprint-United in Beaufort and Greenwood; Rock Hill Telephone Co. in Rock Hill and York) to choose one provider for all their telecommunications needs.

Finally, allowing BST entry into the interLATA market in South Carolina will provide appropriate incentives for the major competitive providers of local exchange service to begin construction of facilities-based networks of their own and to encourage the construction of facilities based networks by others.

The Commission has carefully considered the numerous claims and concerns raised by the Intervenor in this proceeding both in opposition to approval of the Statement and to a finding by this Commission that BSLD entry into the interLATA market will be in the public interest. In arguing that BSLD entry into the interLATA market is premature, Intervenor raises concerns consisting of (1) alleged requirements for approval of BST's Statement that are in addition to the statutory requirements for checklist compliance; (2) policy and legal arguments already litigated and resolved by this Commission; and (3) economic arguments already heard by Congress and resolved by the unambiguous provisions of the Act, which requires only that the local market be open to competition and not subject to any particular degree of actual competition.

The local market is open to competition once the incumbent LEC has made the functions, capabilities and services described

in Section 251 (and summarized in the competitive checklist under Section 271) available to competitors. This docket is not the place to reargue policy issues regarding the appropriate circumstances under which Bell entry into the interLATA market should proceed. Congress has spoken to this issue. Rather, the Commission finds that it should use this docket as the vehicle to move forward as expeditiously as possible to attain the ultimate goal of the Act--competition in all telecommunications markets in South Carolina. Accordingly, as set forth in more detail below, the Commission approves BST's Statement, as modified, and finds that BSLD's entry into the interLATA market in South Carolina is in the public interest.

III. SUMMARY OF TESTIMONY

Al Varner:

BST presented the testimony of Alphonso Varner, Senior Director for Regulatory Policy & Planning for BST. Mr. Varner provided an overview of the requirements BST must meet to achieve in region interLATA relief. Specifically, Mr. Varner defined the 14 point checklist requirements under Section 271(c)(2)(b) of the Act and explained how BST's Statement satisfies all the requirements of the checklist. Witness Varner also summarized why BellSouth's entry into the interLATA market is beneficial for the consumers of South Carolina and is in the public interest. Mr. Varner emphasized that BellSouth's entry into the intraLATA market would accelerate competition in the local market.

Moreover, Mr. Varner emphasized that BellSouth's obligations to keep the local market open do not disappear once BellSouth is granted interLATA relief. Instead, procedural safeguards contained in the Act, FCC Orders promulgated thereunder, and this Commission's rules and regulations would continue to safeguard and govern competition in the local market.

Gloria Calhoun:

Ms. Calhoun, the Director of Regulatory Planning for BST testified about the electronic interfaces BST has made available for use by competing local exchange carriers (CLECS). Ms. Calhoun testified as to how BST provides non-discriminatory access to its Operational Support Systems ("OSS") consistent with, and as required by, the FCC orders promulgated under the 1996 Act. Ms. Calhoun testified that BST provides to the CLECs, electronic interfaces for the pre-ordering, ordering, provisioning, maintenance and repair and billing functions that provide information in substantially the same time and manner that BST provides such information to personnel supporting its retail customers. In summary, Ms. Calhoun testified that BST offers pre-ordering through the Local Exchange Navigation System ("LENS") interface, ordering and provisioning through the (Electronic Data Interchange ("EDI"), Exchange Access Control and Tracking System ("EXACT") and LENS interfaces, maintenance and repair through the CLEC Trouble Analysis Facilitation Interface ("TAFI") interface and billing through its CABS billing process.

Ms. Calhoun testified that these interfaces provided CLECs with information on the same basis as, or in many instances better than, such information is available to BellSouth personnel supporting BellSouth retail operations. Ms. Calhoun also testified that most unbundled network elements ("UNES") are available through the industry standard interfaces of EDI and EXACT, depending on the particular UNE, and through the LENS interface. Ms. Calhoun testified that BST's electronic interfaces meet or exceed all FCC requirements. Further, Ms. Calhoun testified that BST is building customized interfaces under its interconnection agreements and is continuing to support its interfaces indirect response to CLEC comments and suggestions. However, BST's willingness to go beyond the requirements of the Act does not impugn the fact that BellSouth has made available in South Carolina interfaces that comply with the Act and the requirements of the FCC.

Jane Sosebee:

Ms. Sosebee testified that she is employed by BellSouth Business Systems as a Sales Manager in Greenville, South Carolina. Ms. Sosebee testified as to the manual processes associated with the ordering of complex services. Specifically, Ms. Sosebee testified as to the paperwork and ordering processes associated with complex services such as SmartRing®.

William M. Stacy:

Mr. Stacy, Assistant Vice President-Interconnection Operations for BST testified about the overall processes that BST has put in place to provide services to all CLECs. Mr. Stacy testified that BST has created an entire new officer level organization, interconnection operations, which is responsible for all operational aspects of provisioning and maintaining services for CLECs. Witness Stacy testified that BST has aggressively developed processes for handling the ordering, provisioning, maintenance and repair of all interconnection facilities, all resold services and unbundled network elements provided to CLECS. Mr. Stacy further testified that BST's electronic interface systems were designed and developed using the CLECS forecast of work volumes that the system would be required to handle. Mr. Stacy stated that the CLEC volume had not yet come close to approaching the system limits of any system, but that additional capacity could be made available immediately if needed. Mr. Stacy also stated that BellSouth had conducted extensive testing to assure that all systems worked appropriately at designated levels.

Keith Milner:

Mr. Milner, BST Director-Interconnection Operations, testified as to BST's abilities to provide access to certain services, UNES and functionality required by Sections 251 and 271 of the Act. Mr. Milner testified that he had recently led a team

of BST product managers and project managers on a mission to gather information to verify that BST had met the 14 point checklist items. Mr. Milner also testified as to the specific numbers of items ordered by CLECs in South Carolina and in BST's nine state region. Mr. Milner testified that where a CLEC had not ordered a certain checklist item, BST has demonstrated through end-to-end testing procedures that once the item is ordered, BST could provision, maintain and render a bill for such UNE or resold service. Mr. Milner testified that the evidence clearly demonstrates that BST provides, in a functionally available manner, each of the 14 point checklist items.

Robert C. Scheye:

Mr. Scheye, BellSouth Senior Director in Strategic Management, also testified as to how BST had met each of the 14 point competitive checklist items found in Section 252 and 271 of the Act. Mr. Scheye emphasized in his testimony that the customers of BST in South Carolina wish to have the same choices as customers in other parts of South Carolina, such as Myrtle Beach and Beaufort. In these areas of South Carolina, the customer may choose the same company for local and long distance service. Mr. Scheye also went on to testify that many of the items contained in the checklist have been provided by BST for a number of years, such as co-location. Finally, Mr. Scheye testified that the rates contained in BST's statement are cost-based. Mr. Scheye testified at length that the rates contained

in the statement were taken from rates contained in arbitration proceedings between BST and AT&T, FCC proxy rates and agreements entered into with CLECs. Mr. Scheye stated that all rates were within the range of cost information provided to this Commission by both AT&T and BST during the BellSouth-AT&T Arbitration proceeding, PSC Docket No. 96-378-C. Further, Mr. Scheye emphasized that the interim rates contained in the statement are to be adjusted following review by this Commission of additional cost studies which were made available on June 9, 1997. Finally, Mr. Scheye testified that the Act does not require permanent rates for checklist compliance.

James G. Harralson:

Mr. Harralson testified that BSLD would offer long distance service in South Carolina as soon as it was authorized to do so. Mr. Harralson stated that BSLD has applied for a certificate of authority and has filed with this Commission a proposed tariff containing rates 5% below AT&T's basic rates. Mr. Harralson testified that approval of BSLD to provide such service in South Carolina would generate over time substantial rate decreases to long distance customers in South Carolina and also generate a substantial amount of associated economic activity within the State.

Michael J. Raimondi:

Dr. Raimondi is an economist with the WEFA Group. Dr. Raimondi testified that WEFA had undertaken a study to establish

an estimate of the benefits associated with entry by BSLD into the long distance marketplace in South Carolina. Based on an assumption of a 25% decline in long distance rates over the first five years after entry, WEFA estimates that nearly 13,000 jobs would be created in the South Carolina economy and real gross state product would grow by nearly \$1.2 billion as a result of such entry by BSLD.

Frank Hefner:

Dr. Hefner testified as an economist familiar with the South Carolina economy. Dr. Hefner confirmed that the WEFA model was based on reliable assumptions and would produce reliable results with regard to the South Carolina economy.

William E. Taylor:

Dr. Taylor testified as an economist that the public interest favored approval of entry by BSLD into the long distance market in South Carolina. Dr. Taylor confirmed that studies have established a lock-step pattern of price increases in basic rate schedules undertaken by the major long distance providers over the past several years. Dr. Taylor testified that entry by BSLD in South Carolina would lead to substantial rate reductions of as much as 25% in the market price for long distance services in the first year. In terms of consumer surplus, this decrease in the market price of long distance service in South Carolina equates to a benefit of at least \$9 and as much as \$14 a month.

Melissa Closz:

Ms. Closz testified on behalf of Sprint. Ms. Closz summarized several instances where Sprint Metropolitan Networks, Inc. had encountered problems interconnecting with BST in the Orlando, Florida area. However, Ms. Closz admitted that Sprint had not filed any complaints with the Florida Public Service Commission or the FCC regarding its problems. Ms. Closz also testified that BST's interfaces did not support all the functionalities and capabilities that Sprint wanted. However, Ms. Closz acknowledged that the interfaces were being improved and that additional improvements were planned.

David E. Stahly:

Mr. Stahly testified on behalf of Sprint. Mr. Stahly testified that the public interest was against approval of BSLD to offer long distance service in South Carolina. Mr. Stahly testified that to allow BSLD to enter the market would remove any incentive from BST to accommodate local competition.

Don J. Wood:

Mr. Wood testified on behalf of AT&T and MCI. Mr. Wood testified that the rates for both UNE's and interconnection were not cost-based and, therefore, were not in compliance with the standards of the 1996 Act. Mr. Wood encouraged the Commission to institute proceedings to adopt a specific costing methodology and review all interim rates in accordance therewith.

Thomas R. Beard:

Dr. Beard testified on behalf of AT&T and MCI. Dr. Beard testified that the public interest in South Carolina was to delay entry into the long distance marketplace by BSLD. Dr. Beard justified the delay based on the potential harm to local competition. Dr. Beard testified that he believed that BST would not encourage local competition, that BST would foreclose the market for local access by long distance companies and the bundling of long distance and local service together by BST would either 1) constitute a barrier to entry by other competitors or 2) that BST would price the bundled services at a premium thus negating any consumer benefit from the bundled offering.

John Hamman:

Mr. Hamman testified on behalf of AT&T. Mr. Hamman testified that BST had not met numerous checklist items. Mr. Hamman testified that although BST and AT&T had agreed on performance measurements that results were just becoming available so that BST's checklist compliance had not yet been sufficiently measured. Mr. Hamman also testified that because competitors had not yet ordered quantities of several UNE's, BST's ability to provide them could not be confirmed. Finally, with regard to several checklist items, Mr. Hamman testified that BST was not providing AT&T capabilities that were required under its interconnection agreements in other states and thus did not meet additional checklist items.

Jay Bradbury:

Mr. Bradbury testified on behalf of AT&T. Mr. Bradbury commented on BST's OSS, principally focusing on the LENS interface. Mr. Bradbury provided numerous examples of how AT&T felt the OSS did not provide AT&T the useability and capabilities it needed in order to compete. Mr. Bradbury acknowledged that BST has modified LENS to provide functions requested by AT&T and that additional modifications requested by AT&T are forthcoming.

Allen G. Buckalew:

Mr. Buckalew testified on behalf of the South Carolina Consumer Advocate. Mr. Buckalew testified that the long distance market in South Carolina was not as competitive as it ought to be. However, Mr. Buckalew believed that BellSouth Long Distance should not be allowed to provide long distance services until local telephone markets in South Carolina faced effective competition. Mr. Buckalew also testified that the Commission should review the costs underlying the rates in the Statement.

James C. Falvey:

Mr. Falvey testified on behalf of ACSI. Mr. Falvey testified that ACSI has placed facilities in several metropolitan area of South Carolina, but is not providing facilities-based local exchange service. Mr. Falvey testified that ultimately ACSI intends to provide facilities-based local exchange service in South Carolina. However, Mr. Falvey conceded that ACSI has no current plan or commitment as to when local services may be

provided. In direct testimony adopted by Mr. Falvey, ACSI stated that it had no intent to compete for residence customers in South Carolina. Mr. Falvey also stated that ACSI has chosen to deploy switched local exchange services in other places such as Georgia, Texas, New Orleans and Baltimore before deploying in South Carolina. Mr. Falvey also testified concerning service problems encountered by ACSI in dealing with BST in Georgia.

Joe Gillan:

Mr. Gillan testified on behalf of AT&T, MCI and the South Carolina Competitive Carriers Association. Mr. Gillan testified as to the public interest of allowing BellSouth Long Distance to provide long distance service in South Carolina. Mr. Gillan testified as to his belief that long distance prices in South Carolina were not too high and would not be reduced after BellSouth Long Distance entered the market. Mr. Gillan further testified that the amount of UNEs provisioned by BST region-wide was insufficient to determine that BST had met its burden of opening its local market to competition. Therefore, Mr. Gillan concluded that it was premature for BellSouth Long Distance to provide long distance service in South Carolina.

IV. FINDINGS AND CONCLUSIONS

A. Review of Competition in South Carolina

1. Local Competition

At this point in time, almost eighteen months after the passage of the 1996 Act, there is no facilities-based local

competition in South Carolina. Furthermore, none of BST's potential competitors are taking any reasonable steps towards implementing any business plan for facilities-based local competition for business and residence customers in South Carolina. Notably absent in this proceeding was any testimony by any intervenor, other than ACSI, of any intent to ever compete on a facilities basis for local customers in South Carolina. The Commission notes that in the BST - AT&T Arbitration proceeding, AT&T testified at length that it had no plans for facilities-based competition in South Carolina and that such competition by any competitor of BST was years away.

ACSI, the only intervenor which stated that it had placed facilities in South Carolina, testified that it does not compete as a local service provider, but rather only as an access provider. While ACSI stated in response to cross-examination from MCI that it had an "intent" to compete in the future, ACSI testified that it had no business plan or firm commitment to place the necessary facilities in South Carolina to begin to provide such competition. Moreover, in its testimony, ACSI stated that it had no intent to compete for residence customers in South Carolina. Mr. Falvey, testifying on behalf of ACSI, stated that ACSI's decision not to compete in South Carolina is not related to any action on the part of BST, but rather its own business decision to deploy its capital in other areas, such as Georgia, Texas, New Orleans and Baltimore.

BST has voluntarily negotiated and submitted to this Commission in excess of 50 interconnection agreements with various other companies. This Commission has approved every such agreement submitted to it. This Commission has also approved over 10 applications for local service authority in South Carolina, including applications from AT&T, MCIMetro and Sprint. AT&T and BST successfully concluded their arbitration process before this Commission by submitting an interconnection agreement for approval, which approval was granted on June 20, 1997. In short, this Commission has taken every step available to it to encourage and to foster local competition in the State of South Carolina.

Other than vague allegations, no intervenor has provided any substantive proof that BST has taken any action to prevent or to retard the development of local competition in South Carolina. In fact, the testimony in this proceeding established that BST has devoted substantial resources involving the efforts of hundreds of employees and the expenditure of hundreds of millions of dollars to meet or to exceed the requirements of the 1996 Act to open its local market to competition. Obviously, the same processes, systems, personnel and facilities are used by competitors in other areas in BellSouth's region as a basis for vigorous local competition. Therefore, this Commission must conclude that BellSouth has met the burden of establishing that its local market in South Carolina is open to competition.

2. Long Distance Competition

In 1982, this Commission became the first state commission in this country to approve a request for authority to provide competitive long distance service in the State of South Carolina. Since then, this Commission has established a history of encouraging competition in all long distance markets in South Carolina. In fact, this Commission has approved over 400 certificates for long distance authority.

This Commission has been greatly concerned over the last several years as the major long distance providers have instituted several rounds of lock-step price increases in their basic rate schedules. Furthermore, this Commission has never been able to establish whether or not reductions in intrastate access charges have been passed through to long distance customers. Several witnesses in this proceeding have established that for large business customers, in particular, the long distance market is competitive. However, many residence customers who do not subscribe to discount plans or who subscribe to discount plans based on basic rate schedules have seen their long distance rates increase over the past few years.

B. Overview of the Act

The Act is a landmark bill in the history of telecommunications. Prior to its enactment, the Modification of Final Judgment barred Regional Bell Operating Companies ("RBOCs") from providing interLATA service, and exclusive state franchises

or grants of authority protected RBOCs from competition in their local service territories. The 1996 Act intended "to provide for a procompetitive, deregulated national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition." S. Rep. No. 230, 104th Cong., 2d Sess. 1 (1996) ("Conference Report") (emphasis supplied). Congress debated for many months the best way to open all telecommunications markets, and the Act that emerged reflects a balanced set of rules designed to govern comprehensively both the opening of the local markets and the opening of the in-region interLATA markets to competition by the RBOCs.

The first step was opening local telecommunications markets. See, 142 Cong. Rec. S688 (daily ed. Feb. 1, 1996) (statement of Sen. Hollings) (Bell companies must "open their networks to competition prior to their entry into long distance"). Congress set out specific requirements for opening local markets in Sections 251-253 of the Act and made entry into long distance under Section 271 conditional upon the BOCs doing so. 141 Cong. Rec. S8138 (daily ed. June 12, 1995) (statement of Sen. Kerrey); see, 141 Cong. Rec. S8152-8153 (daily ed. June 12, 1995) (statement of Sen. Breaux) (BOCs allowed to sell long distance and required to open local exchange markets).

Congress did not simply remove the legal barriers to entry and leave new entrants to fend for themselves against entrenched incumbents.¹ To assist new entrants into the local market, Congress went to extraordinary lengths to ensure that new entrants will have available to them -- in addition to facilities of their own -- a set of functions, capabilities and services from the established incumbent's network to begin providing competing local exchange service. The complete set of functions, capabilities and services arise out of a combination of obligations imposed on incumbent LECs under Section 251 (a)(b) and (c).² As stated by the Eighth Circuit Court of Appeals:

The Act effectively opens up local markets by imposing several new obligations on the existing providers of local telephone service in those markets. . . . Among other duties, the Act requires incumbent LECs (1) to allow other telecommunication carriers (such as cable television companies and current long distance providers) to interconnect with the incumbent LEC's existing local network to provide competing local telephone service (interconnection); (2) to provide other telecommunication carriers access to elements of the incumbent LEC's local network on an unbundled basis (unbundled access); and (3) to sell to other telecommunication carriers, at wholesale rates, any telecommunications service that the incumbent LEC provides to its retail customers (resale).

Iowa Utilities Bd. v. FCC, 109 F.3d 418, 421-22 (8th Cir. 1996).

¹ Congress removed and prohibited any legal barriers to local competition in Section 253 of the Act.

² Section 251(a) and (b) set forth obligations imposed on all telecommunications carriers and all local exchange companies (not just incumbent LECs). The duties imposed on all telecommunications carriers and local exchange carriers, as well as incumbent LECs, include the duties to provide number portability, dialing parity, access to telephone numbers, operator services, directory assistance and directory listings, access to rights of way and reciprocal compensation for the transport and termination of telecommunications. Each of these duties has a place on the 14-point competitive checklist set forth in Section 271(c)(2).

The court also noted that "[t]o accomplish these directives, the Act places a duty on incumbent LECs to privately negotiate in good faith comprehensive agreements with other telecommunication carriers seeking to enter the local market." Id. at p. 422 (Citing 47 U.S.C. §§ 251(c)(1), 252(a)). And the court further observed: "If the incumbent LEC and the carrier seeking entry are unable to reach a negotiated agreement, either party may petition the respective state commission to conduct a compulsory arbitration of the disputed issues and arrive at an arbitrated agreement." Id. (Citing 47 U.S.C. §§ 252(b)).

In addition to negotiating and to arbitrating private agreements with new entrants, the Act affords incumbent LECs ("ILECs") the unconditional right to prepare and file at any time a statement of generally available terms and conditions. Section 252(f) provides that:

A Bell operating company may prepare and file with a State commission a statement of the terms and conditions that such company generally offers within that state to comply with the requirements of section 251 and the regulations thereunder and the standards applicable under this section. (emphasis supplied)

47 U.S.C. § 252(f)(1). Once approved by the Commission, the Statement can provide the proper vehicle for CLECs to use to enter the local market quickly without having to negotiate an interconnection agreement with an ILEC. The Statement may be particularly useful to smaller carriers that wish to do business with the ILEC without becoming involved with formal negotiations.

Approval of a statement of general terms and conditions is also an important step which can be used by an RBOC to obtain authorization to provide in-region interLATA services. An RBOC may use an approved statement to demonstrate its compliance with the application process described in 47 U.S.C. § 271(c)(2)(B) (Track B), which requires an RBOC to show that such a statement has been approved or has been permitted to take effect. Further, while an application to the FCC under 47 U.S.C. § 271(c)(2)(A) (Track A) does not explicitly require an approved statement, an RBOC could presumably use an approved statement to supplement interconnection agreements with CLECs that may not include all items from the checklist.

A state commission may not approve such a statement unless it complies with Section 251 and the pricing standards for interconnection, UNE's and resale contained in Section 252(d). This is the same standard to be applied by this Commission for approval of arbitrated agreements. Compare 47 U.S.C. § 252(f)(2) with 47 U.S.C. § 252(e). The state commission to which a statement is submitted shall, not later than 60 days after the date of such submission, complete its review of such statement (unless the submitting carrier agrees to an extension of the period for such review); or permit such statement to take effect without actually approving it. 47 U.S.C. § 252(f)(3) & (4).

Thus, in order to approve BST's Statement, the Commission must find that it complies with Section 251 and the pricing

standard contained in Section 252(d). These provisions require BST to offer number portability; dialing parity; access to telephone numbers, operator services, directory assistance and directory listings; access to rights of way; reciprocal compensation for the transport and termination of telecommunications; interconnection at any technically feasible point; resale of retail services at an avoided cost discount; and access to unbundled network elements at rates based on cost.

The complete set of functions, capabilities and services made available to CLECs by the legal obligations imposed on BST in Sections 251 and 252(d) are the same as the items contained in the 14-point competitive checklist in Section 271. Accordingly, a finding by the Commission that BST's Statement satisfies the obligations under Sections 251 and 252(d) necessarily includes a finding that the Statement meets the 14-point competitive checklist under Section 271. For this reason and for ease of discussion, the Commission describes below how the Statement complies with Section 251 and Section 252(d) with reference to each item on the competitive checklist.

In order to satisfy the checklist under 47 U.S.C. § 271(c)(2)(B), (Track B), BST must show that it "offers all of the items included in the competitive checklist" through its statement of generally available terms and conditions. (emphasis supplied). BST has made this showing. To "offer" means "to make available." Webster's New Collegiate Dictionary (1973).

Approval of the Statement does not require BST to demonstrate that it is actually providing each checklist item. However, BST has established that it has actually provided each item in its nine-state operating region. The Act requires only that the items in the Statement be "generally offered", and that the rates, terms and conditions of the items are consistent with Section 251 and 252(d) of the Act.³

C. BST's Statement Meets the Requirements of the 14-Point Competitive Checklist

The Commission finds that the rates, terms and conditions of interconnection, unbundling and resale in the Statement comply with Section 251 and 252(d) of the Act. They reflect in a very specific and detailed way the Commission's rulings in the BellSouth-AT&T arbitration proceeding in Docket No. 96-358-C and are consistent with the voluntary interconnection and/or resale agreements executed by BST and various CLECs. BST has executed over 100 such agreements region-wide and this Commission had approved approximately 40 such agreements in the state of South Carolina as of the hearing in this matter. Approximately 10 of the CLECS that have approved interconnection agreements with BST

³ See, 47 U.S.C. § 252 (f)(1) & (2) (Bell company "may prepare and file a statement of the terms and conditions that such company generally offers within the state to comply with the requirements of section 251" and state commission can approve such statement if it "complies with subsection (d) of this section and section 251); see also, 47 U.S.C. § 271(c)(2) (Bell company meets requirements of section 271(c) if it is "generally offering access and interconnection pursuant to a statement" that meets the competitive checklist).

in South Carolina have received Commission approval to operate as CLECs within the State. Other CLEC applications are pending.

The record reflects that BST has supplied the personnel, resources and procedures to provide the checklist items to CLECs upon request. As testified by BellSouth witness Bill Stacy, BST has created an entire new officer-level organization, Interconnection Operations, which is responsible for all operational aspects of provisioning and maintaining services for CLECs. As a part of its efforts to serve its CLEC customers, BST has established two ordering centers in Birmingham and Atlanta dedicated to CLEC customers. These centers currently have approximately 280 employees. They will be staffed by approximately 320 employees by the end of 1997. A Customer Support Manager is assigned to each CLEC to provide a single liaison point if a CLEC customer has operational issues that are not satisfactorily resolved by the normal center processes. BST has gathered forecasts of expected transaction/order volumes from its CLEC customers to allow it to project ordering volumes, provisioning volumes, and trouble reporting volumes and to staff its support systems accordingly. BST also has developed the methods and procedures for the functions of pre-ordering, ordering and provisioning, maintenance and repair, and billing which provide CLECs with access to the required information and functions in substantially the same time and manner as BellSouth's access for its retail customers.

Although AT&T, MCI, and others challenged BST's ability to offer the checklist items, they offered no evidence to dispute that BST has, in fact, been providing the checklist items in substantially the same time and manner as it does for its retail operations.

Checklist Item No. 1: Interconnection in accordance with the requirements of Sections 251(c)(2) and 252(d)(1)

Interconnection permits the exchange of local traffic between the networks of BST and a CLEC over trunks terminated at specified interconnection points. Section I of BST's Statement provides for complete and efficient interconnection of requesting telecommunications carriers' facilities and equipment with BST's network. This involves the following components: (1) trunk termination points generally at BST tandems or end offices for the reciprocal exchange of local traffic; (2) trunk directionality allowing the routing of traffic over a single one-way trunk group or a two-way trunk group depending upon the type of traffic; (3) trunk termination through virtual collocation, physical collocation, and interconnection via purchase of facilities from either company by the other company; (4) intermediary local tandem switching and transport services for interconnection of CLECs to each other; and (5) interconnection billing. Although the Commission discusses the issue of rates in more detail below, the Commission notes here that BST has included in its Statement rates within the interim FCC proxy

rates that the Commission ordered BST and AT&T to use in their interconnection agreement for call transport and termination.

Finally, as testified by BellSouth witness Keith Milner, BST has procedures in place for the ordering, provisioning, and maintenance of its interconnection services as well as technical service descriptions outlining its local interconnection trunking arrangements and switched local channel interconnection. Mr. Milner presented unrefuted testimony that, as of June 1, 1997, BellSouth had installed approximately 19,360 interconnection trunks from CLECs' switches to BellSouth's switches in BellSouth's nine-state region. Mr. Milner also testified that BellSouth has successfully tested its capabilities to provide each of these items.

The Intervenors presented no evidence to rebut the testimony of Mr. Scheye and Mr. Milner regarding BellSouth's proven ability to offer this checklist item. AT&T's witness, Mr. Hamman, testified that, in his opinion, BST had not met this checklist item because BST had purportedly not fully satisfied AT&T's interconnection needs set forth in the BellSouth-AT&T interconnection agreement. Irrespective of whether AT&T and BST have reached a satisfactory resolution of that issue, however, the fact remains that BST has provisioned in excess of 19,000 interconnection trunks to date. The test that BST must meet is not whether BST satisfied every condition of a private arbitration agreement with AT&T. Rather, BST must show that it

has made interconnection generally available to CLECs, as required by Section 252(f). BST has made this showing.

Checklist Item No. 2: Nondiscriminatory access to network elements in accordance with the requirements of Sections 251(c)(3) and 252(d)(1)

This checklist item reflects BST's general obligation under Section 251(c)(3) to provide nondiscriminatory access to network elements on an unbundled basis at any technically feasible point under just and reasonable rates, terms, and conditions. Further, requesting carriers are allowed to combine elements in order to provide telecommunications services. Since many of the unbundled network elements BST will provide fall under other items in the 14-point checklist, the Commission will discuss those specific elements under their respective checklist items below. The discussion here will include collocation, operations support systems, and the Bona Fide Request process that BST will use to facilitate requests by any new entrant for interconnection or UNE's not specifically included in the checklist or BST's Statement. The Commission will analyze the appropriateness of BST's proposed rates for UNE's in Section IV.C. below.

a. Collocation

While not specifically mentioned as a checklist item, Section 251(c)(6) charges BST with the duty to provide the physical collocation of equipment necessary for interconnection or access to UNE's at rates, terms and conditions that are just

and reasonable. This process will allow a CLEC access to BST's switching offices, for example, so that the CLEC may place its switches alongside BST's equipment. BST will provide virtual collocation where physical collocation is not practical for technical reasons or space limitations.

Mr. Milner testified that BST has technical service descriptions and procedures in place for the ordering, provisioning and maintenance of its collocation services. Since late 1996, one CLEC's facilities have been physically collocated in BST's Courtland Street Central Office in Atlanta. Although no CLEC in South Carolina has ordered a physical collocation arrangement, 56 physical collocation arrangements were in progress at the time of this hearing across BellSouth's region. There is also no dispute that virtual collocation is available from BellSouth, as evidenced by the five virtual collocation arrangements in place at the time of the hearing and one additional arrangement in progress. Further, Mr. Milner testified that BellSouth had 133 virtual collocation arrangements in service to CLECs across its region as of May 31, 1997 with an additional 45 arrangements in progress.

b. Operational Support Systems

The Commission finds that BST's electronic interfaces through which the CLECs must access necessary operational support systems permit the CLECs to access those systems in a nondiscriminatory manner. Not only did the testimony of BST

witness Ms. Gloria Calhoun establish that BST's operational support systems provide CLECs with the functionalities they need to provide local telecommunications services in competition with BST, her testimony also demonstrated that the CLECs who desire access to these operational support systems have adequate access to them.

The electronic interfaces that BST has in place generally provide non-discriminatory access to BST's operational support systems in the manner required by the FCC. The FCC has stated that the CLECs must have access to the incumbent local exchange company's operational support systems "in substantially the same time and manner that an incumbent can for itself." See, FCC First Report and Order, ¶ 518. Further, the FCC also required access to operational support systems "under terms and conditions that would provide an efficient competitor with a meaningful opportunity to compete." Id. at ¶ 315. In considering whether the electronic interfaces provide CLECs with the access to BST's operational support systems as required by the Act, this Commission uses the same standard articulated by the FCC.

Ms. Calhoun's testimony confirmed that BST's electronic interfaces provide access to BST's operational support systems for pre-ordering, ordering, maintenance and repair, and billing that is substantially the same as, and in many cases better than, that which it provides to personnel supporting BST's retail customers. In evaluating these interfaces, the Commission has

been careful to distinguish between the legal standard that BST must meet in order to show compliance with the competitive checklist set forth in 47 U.S.C. § 271(c)(2)(B), and the higher standard that BST has set for itself in seeking to accommodate the desires of certain large CLECs, such as AT&T. Although AT&T and other CLECs may ultimately be BST's competitors, AT&T and other CLECs will also be BST's customers. Therefore, BST will undoubtedly provide AT&T and others with services that go beyond that which is required by the Act.

The competitive checklist is simply the minimum standard that BST must meet in order to seek permission to enter the interLATA long distance market. Although that minimum standard has already been reached, BST's testimony shows that it will continue to upgrade and to enhance its systems. However, the Commission does not construe the continuing improvement of certain aspects of BST's interfaces as an admission that the systems do not already fulfill the competitive checklist. The protestations of AT&T and others notwithstanding, the fact is that the electronic interfaces for pre-ordering, ordering and provisioning, maintenance and repair, and billing are operational and comply with the competitive checklist today. These interfaces are discussed briefly below.

1. Pre-ordering

Ms. Calhoun's testimony established that BST's electronic interfaces for preordering comply fully with the requirements of

the Act and the FCC Order. The LENS interface permits CLECs to obtain, in substantially the same time and manner as BST, the following:

- (1) address validation;
- (2) telephone number selection, including special number assignment;
- (3) product and service selection;
- (4) due date information; and
- (5) customer record information.

LENS is a graphic "point and click" interface which CLECs may use region-wide for both residence and business support. In contrast, BST personnel must use at least two systems, one supporting residence and one supporting business.

In addition, BST has agreed to provide AT&T with a customized pre-ordering interface designed to AT&T's specifications, which goes beyond the requirements of the Act. BST's willingness to accommodate AT&T should not be construed as proof that LENS is non-compliant. The Commission recognizes that while AT&T criticizes LENS as being a non-industry standard interface, there is currently no industry standard for pre-ordering. Thus, AT&T's own customized interface is not an industry standard.

2. Ordering and Provisioning

BST's ordering and provisioning systems accumulate and format the information, such as pre-ordering information, needed

to enter an order in BST's Service Order Control System ("SOCS"). Without repeating the detailed discussion of these systems set forth in Ms. Calhoun's testimony, the Commission does emphasize that BST employs two industry-standard ordering systems, depending upon the type of service ordered. The first is the EDI interface for resale orders and simple unbundled network elements, such as unbundled ports. EDI permits CLECs to order for resale 30 retail services that account for most of BST's retail revenue. These orders can be entered into SOCS without manual intervention. EDI also can be used to support orders for unbundled local loops, unbundled ports, interim number portability, and local loop/interim number portability combinations.

Additionally, EDI allows CLECs to place orders for four "complex" services, such as PBX trunks or SynchroNet® service. Other complex services, such as SmartRing® service, not currently supported by EDI are handled in the same manner for both CLEC customers and BST retail customers. BST witness Jane Sosebee described the significant amount of manual paper work and telephone calling necessary to process some complex service orders for BST's retail customers. The fact that a CLEC customer may have to experience this same manual ordering process for these same services does not place the CLEC at a competitive disadvantage with BST.

BST's existing EXACT interface also allows CLECs to order interconnection trunking and other more infrastructure-type unbundled network elements. The Commission notes that the EXACT ordering system is the same industry-standard interface used by BST for processing access service requests from interexchange carriers.

The testimony of Ms. Calhoun and Mr. Stacy demonstrated that these systems are operational and are capable of processing a sufficient number of orders to permit meaningful competition in South Carolina. The Commission observes that BST's harshest critic of the capacity of these systems--AT&T--did not produce a policy witness in these proceedings whom the Commission could question regarding AT&T's plans to begin offering local service in South Carolina. AT&T's claims of "insufficient capacity" ring hollow when AT&T is not willing to even share with the Commission its plans to provide South Carolinians with a choice of local service providers.

The capacity of the EDI ordering system, including the mechanized order generation capability, has been verified as being at least 5,000 local service requests per day, which is the capacity for which this system was initially designed based on forecasted ordering volumes supplied by CLECs themselves to BST. Additional capacity is available for rapid turn up that would double the capacity to 10,000 orders per day. As Mr. Stacy confirmed, CLEC ordering activity to date has not come close to

approaching the forecasted volume. Compliance with the Act does not require BST to build out capacity for which there is no reasonable expectation at this time. BST will continue to forecast ordering volumes based on CLEC input. Also, although EDI is the industry standard interface for CLEC ordering, BST has made ordering an additional optional capability available through its LENS interface.

3. Maintenance and repair.

Ms. Calhoun testified that CLECs may access maintenance and repair information in substantially the same time and manner as BST. For design circuits, BST provides CLECs with the same real-time electronic trouble reporting interface that is available to interexchange carriers. CLECs also have access to the same local exchange service trouble reporting system that BST uses for its retail customers -- the TAFI system. The TAFI system, which analyzes troubles, initiates testing, and provides CLECs with recommendations for clearing the trouble, is the same as the TAFI system used by BST. The only difference is an electronic and nearly instant security check that verifies that a CLEC is accessing only its customers' information.

Mr. Stacy testified that BST tested the CLEC version of TAFI to ensure it functioned properly before offering it to the CLECs. From March 17 through April 16, 1997, a group of BST repair attendants used the CLEC version of TAFI to process about

10,000 trouble reports from real customers. The CLEC version of TAFI worked in the same time and manner as BST's TAFI.

TAFI currently will support 65 simultaneous users with the volume of 1300 troubles per hour. BST is in the process of activating a second processor that will double the capacity to 130 simultaneous users. Furthermore, a "hot spare" for TAFI that can be activated almost immediately and would increase capacity by an additional 65 users for a combined total of 195 simultaneous users and 3900 troubles handled per hour. The current capacity far exceeds usage to date and forecasted usage in the immediate future.

4. Billing

CLECs have electronic access to daily billable usage data, through which CLECs have access to the data they need in substantially the same time and manner as BST. Mr. Stacy testified that these billable usage files are generated through the same mainframe-based systems that have been used to bill for IXC's for quite some time. With existing spare capacity, BST has identified no constraints to its capacity to process daily usage files for CLECs.

5. Bona Fide Request Process

Though not specifically addressed in the Act, the Bona Fide Request process provides a method by which BST can satisfy its duty under the Act to provide nondiscriminatory access to network elements as requested by any telecommunications carrier. The

Commission agrees that this is appropriate for inclusion in the Statement to recognize that new entrants may, over time, desire additional capabilities not specifically mentioned in the checklist.⁴

BST has jointly developed a Bona Fide Request process with AT&T to request a change to services and elements including features, capabilities or functionality. The Bona Fide Request process was not a subject of dispute in the BST-AT&T arbitration. This process is available to any new entrant with a need for interconnection or unbundled capabilities not included in the Statement. This process addresses procedures and time frames for requests such that each party fully understands the progress of each request.

In sum, the Commission concludes that BST's Statement provides CLECs with nondiscriminatory access to network elements in accordance with the requirements of the Act.

Checklist Item No. 3: Nondiscriminatory access to poles, ducts, conduits, and rights-of-way in accordance with the requirements of Section 224

In Section III of the Statement, BST offers access to poles, ducts, conduits and rights-of-way to any CLEC via a standard license agreement. Mr. Milner testified that, as of the hearing,

⁴ Further, the Commission has not addressed bona fide requests in either generic proceedings or arbitration proceedings. Handling of bona fide requests has not been an issue for arbitration between the parties. BST has, however, negotiated agreements with new entrants that provide for handling of such requests. The inclusion of such a process should also provide assurance to the parties operating under the Statement that they will be able to request additional capabilities over time.

13 CLECs have executed license agreements with BST to allow them to attach their facilities to BST's poles and place their facilities in BST's ducts and conduits. Nine of those license agreements are with CLECs who are authorized to provide service in South Carolina. Further, Mr. Milner noted that BST has been providing cable television companies and power companies with access to poles, ducts, conduits and rights-of-way in South Carolina and throughout its region for many years. No party to this proceeding introduced any evidence to dispute BST's testimony that access to poles, ducts, conduits and rights-of-way is functionally available from BST.

Checklist Item No. 4: Local loop transmission from the central office to the customer's premises, unbundled from local switching and other services

The local loop is a dedicated facility, (e.g., a cable pair) from the customer's premises to the main distribution frame of the serving central office. This checklist item, as well as checklist items 4-7 and 9-12, are functions and capabilities associated with a switch, and thus are only necessary for a facilities-based CLEC that has its own switch. By choice, no CLEC has placed a switch in South Carolina, although ACSI has stated its intention of doing so at some indefinite time in the future. The CLEC's failure to request these items does not translate into a failure to meet the checklist because, as Mr. Milner and Mr. Scheye testified, each of these functions and features is available in the Statement.

In Section IV of the Statement, BST offers several loop types that CLECs may request in order to meet the needs of their customers. According to Mr. Milner, BST has technical service descriptions outlining unbundled loops and subloops that are available from BST, and BST has implemented procedures for the ordering, provisioning, and maintenance of unbundled loops and subloops. While as of yet no CLEC in South Carolina has requested any unbundled loops from BST, as of June 1, 1997, BST had provisioned 2,654 unbundled loops to CLECs in its nine-state region.

Further, Mr. Milner testified that BST has also conducted testing to verify that unbundled local loop transmission is available to CLECs. Specifically, BST has tested the availability of 1) 2-wire and 4-wire unbundled voice loops; 2) 56 Kbps and Basic Rate Interface unbundled digital loops; 3) unbundled DS1 with bundled interoffice transport; 4) ADSL capable loop; and 5) HDSL 2-wire and 4-wire capable loops. BST has generated orders for these items and those orders flowed through the BST system in a timely and accurate fashion. Based upon the record before it, the Commission concludes that BST has met this checklist item.

Checklist Item No. 5: Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services

There are two types of local transport--dedicated and common. Dedicated transport is used exclusively by a single

carrier for the transmission of its traffic. For example, a CLEC switch can connect directly to a BST switch through the use of dedicated transport. Common transport is used to carry the traffic of more than a single company for the transmission of their aggregate traffic. Common transport can connect a BST end office to another BST end office or to a BST tandem. When a tandem switch is involved, a separate charge for tandem switching would apply in addition to the transport rates. This is similar to the application of a tandem switching charge for interconnection at a tandem switch.

BST offers unbundled local transport in Section V of its Statement with optional channelization for such local transport from the trunk side of its switch. BST offers both dedicated and common transport for use by CLECs, including DS0 channels, DS1 channels in conjunction with central office multiplexing or concentration, and DS1 or DS3 transport. Mr. Milner testified that BST has technical service descriptions outlining both dedicated and shared interoffice transport, and has procedures in place for the ordering, provisioning and maintenance of these services. While no CLEC in South Carolina has yet requested dedicated local transport from BST, BST has provided 716 dedicated trunks providing interoffice transport to CLECs in BST's nine-state region as of June 1, 1997. Further, BST has tested its methods and procedures for these services and has demonstrated its ability to place these facilities in service and

generate a timely and accurate bill for them. The Commission concludes, therefore, that unbundled local transport is functionally available and that BST has met this checklist item.

Checklist Item No. 6: Local switching unbundled from transport, local loop transmission, or other services

Mr. Scheye testified that local switching is the network element that provides the functionality required to connect the appropriate originating lines or trunks wired to the main distributing frame, or to the digital cross connect panel, to a desired terminating line or trunk. The most common local switching capability involves the line termination (port) and the line side switching (dial tone) capability in the central office. The functionality includes all of the features, functions, and capabilities provided for the given class of service, including features inherent to the switch and the switch software and includes vertical features, such as Call Waiting. It also provides access to additional capabilities such as common and dedicated transport, out-of-band signaling, 911, operator services, directory services, repair service, etc. The CLEC in purchasing unbundled local switching will determine which vertical features it wishes to activate and which additional unbundled elements it wishes to use in conjunction with the unbundled switching.

In Section VI of the Statement, BST offers a variety of switching ports and associated usage unbundled from transport,

local loop transmission and other services. These include a 2-wire and 4-wire analog port, 2-wire ISDN digital and 4-wire ISDN DS1 port, and 2-wire analog hunting. Additional port types are available under the Bona Fide Request process.

Mr. Milner testified that BST has technical service descriptions and procedures in place for the ordering, provisioning and maintenance of its switching services. Further, BST has tested its methods and procedures for these services and has demonstrated its ability to place these facilities in service and to generate a timely and accurate bill for them. While no CLEC has yet ordered unbundled switch ports in South Carolina from BST, BST had 26 unbundled switch ports in service as of June 17, 1997, thus evidencing the functional availability of unbundled local switching from BST. Although Mr. Hamman testified that BST had failed to make direct (selective) routing available to AT&T, the record reveals that AT&T has not requested the use of selective routing in South Carolina. Mr. Milner specifically testified that BST could provide selective routing in South Carolina upon request. Further, there was no evidence presented to demonstrate that BST would refuse such a request from AT&T once it was made.

Mr. Milner testified that BST has tested its selective routing service, which allows CLECs to route 0+, 0-, and 411 calls to an operator other than BST's or to route 611 repair calls to a repair center other than BST's through the use of line

class codes (until they are exhausted). Thus, the Commission finds that BST has met this checklist item.

Checklist Item No. 7: Nondiscriminatory access to 911 and E911 services, directory assistance, and operator call completion services

As explained by Mr. Scheye, BST's Statement offers local exchange providers nondiscriminatory access to 911 and E911 service, thereby allowing any CLEC customer to call in the event of an emergency. Access to these services is offered to both facility-based providers and resellers. In Section VII of the Statement, BST offers to perform directory assistance and other number services on behalf of facilities-based CLECs, which allow end user customers in exchanges served by BST to access BST's directory assistance service by dialing 411 or the appropriate area code and 555-1212. BST also offers CLECs access to BST's Directory Assistance database under the same terms and conditions currently offered to other telecommunications providers. BST makes available its operator services in the same manner that it provides operator services to its own customers. In addition, BST offers Centralized Message Distribution System - Hosting and Non-Sent Paid Report System processing. BST's provision of 911, directory assistance, and operator call completion services is consistent with orders of this Commission.

Mr. Milner testified that, as of June 1, 1997, BST had 166 trunks in service connecting CLECs with BST's E911 arrangements. BST also has had experience loading data for 14 CLECs into BST's

E911 databases. In addition, and also as of June 1, 1997, BST had over 362 directory assistance trunks involving CLECs in service throughout the BST region. Moreover, BST has for many years provided comparable directory assistance to independent local telephone companies in South Carolina, as well as to IXC's. BST also has offered its Directory Assistance Database Service (DADS) regionally since 1993, and currently provides DADS to 11 customers.

BST also has offered its Direct Access to Directory Assistance Service (DADAS) since 1996, and has one customer. Facilities-based CLECs can obtain access to operator call processing by connecting their point of interface via a trunk group to BST operator services system. As of June 1, 1997, there were 174 such trunks in place, plus 38 verification trunks in place, serving CLECs in BST's nine-state region. Further, BST has tested its methods and procedures for these services and has demonstrated its ability to place these facilities in service and generate a timely and accurate bill for them. The record demonstrates that BST has met this checklist item.

Checklist Item No. 8: White pages directory listings

BST arranges with its directory publisher to make available White Pages directory listings to CLECs and their subscribers which include the subscriber's name, address, and telephone number. CLEC subscribers receive no less favorable rates, terms and conditions for directory listings than are provided to BST's

subscribers (e.g., the same information is included, the same type size is used, and the same geographic coverage is offered). BST is providing White Pages directory listings to CLECs and their subscribers, with thousands in place today. No party introduced evidence to dispute that BST has met this checklist item.

Checklist Item No. 9: Nondiscriminatory access to telephone numbers

BST, as the North American Numbering Plan Administrator for its territory, ensures that CLECs have nondiscriminatory access to telephone numbers for assignment to their customers. At such time as BST is no longer the NANP Administrator, BST will comply with the final and non-appealable guidelines, plan, or rules adopted pursuant to 47 U.S.C. § 251(e), which addresses the creation or designation by the FCC of numbering administrator(s). BST has established procedures to provide nondiscriminatory NXX code assignments to CLECs. As of June 23, 1997, BST had activated a total of 496 NPA/NXX codes for CLECs throughout the BST region and 25 such codes in South Carolina. The Commission concludes that CLECs have nondiscriminatory access to telephone numbers from BST and that BST has met this checklist item.

Checklist Item No. 10: Nondiscriminatory access to databases and associated signaling necessary for call routing and completion

Mr. Scheye testified that BST's Statement provides access to the signaling elements necessary for call routing and completion,

including Signaling Links, Signal Transfer Points, and Service Control Points (databases). The SCPs/Databases to which CLECs have access include, but are not limited to, Line Information Database ("LIDB"), Toll Free Number Database, Automatic Location Identification and Data Management System, Advanced Intelligent Network ("AIN").

Mr. Milner testified that BST has technical service descriptions that outline access to these databases and has procedures in place for the ordering, provisioning and maintenance of these services. From January through April, 1997, CLECs across BST's nine-state region made approximately 8 million queries to BST's 800 database, thus demonstrating its functional availability. Further, BST's LIDB received more than 129 million queries from others during January through April 1997. Testing of BST's AIN Toolkit 1.0, which provides a CLEC with the ability to create and offer AIN-service applications to their end users, confirmed that service orders flowed through BST's systems properly and that accurate bills were rendered. Finally, BST's signaling service is also functionally available, as demonstrated by the fact that as of June 1, 1997, one CLEC is interconnected directly to BST's signaling network, and 7 other CLECs have interconnected using a third-party signaling hub provider which, in turn, accesses BST's signaling network. BST has satisfied this checklist item.

Checklist Item No. 11: Interim number portability

Number portability is a service arrangement that allows customers to retain their existing telephone numbers when switching from one carrier to another carrier. In its Statement, BST offers Remote Call Forwarding (RCF) and Direct Inward Dialing (DID) as two forms of interim number portability. These arrangements are expressly specified in checklist item 11 and comply with the FCC's July 2, 1996 First Report and Order in CC Docket No. 95-116 (Number Portability Order). Further, BST has tested its methods and procedures for these services and has demonstrated its ability to place these facilities in service and generate a timely and accurate bill for them. BST has demonstrated its operational experience in providing these methods of number portability. As of June 10, 1997, BST had ported 5,861 business and 29 residence directory numbers in its region.

Mr. Hamman for AT&T testified that BST has not complied with this checklist item because BST had not made a privately negotiated form of number portability (route indexing-portability hub) ready for use by AT&T. Mr. Hamman confuses BST's obligation to comply with a checklist item with BST's contractual commitments to AT&T. The fact that BST may negotiate multiple forms of interim number portability with CLECs does not translate into an obligation to include all of those methods in its Statement. Based upon the record before this Commission, it is

undisputed that BST's Statement offers the two forms of interim number portability specified in checklist item 11 and, accordingly, the Commission finds that BST's interim number portability offer complies with checklist item 11.

Checklist Item No. 12: Nondiscriminatory access to services or information necessary to implement local dialing parity in accordance with the requirements of Section 251(b)(3)

Dialing parity permits local service subscribers to dial the same number of digits to place a local call, without the use of an access code, regardless of their choice of local service provider. Mr. Scheye provided undisputed direct testimony that BST will interconnect with CLECs so that the same number of digits that are dialed by a BellSouth retail customer may be used by the CLEC customer to complete a call. BST is providing local dialing parity. No party introduced evidence to dispute that BST has met this checklist item. Accordingly, the Commission finds that BST has met this checklist item.

Checklist Item No. 13: Reciprocal compensation arrangements in accordance with the requirements of Section 252(d)(2)

This checklist item requires that reciprocal compensation arrangements for exchange of traffic between local carriers must comply with Section 252(d)(2) of the Act. Under Section 252(d)(2), each carrier must receive mutual and reciprocal recovery of costs associated with the transport and termination on each carrier's facilities of calls that originate on the

network facilities of the other carrier. The costs shall be based on the reasonable approximation of the additional costs of terminating such calls.

In its March 10, 1997 Order in Docket No. 96-358-C (the BST-AT&T Arbitration), the Commission ordered the use of rates within the FCC proxy rates for interconnection between BST and AT&T. As established by Mr. Scheye, BST has incorporated those rates into the Statement in this proceeding. The Commission therefore concludes that BST's reciprocal compensation arrangements are in full compliance with this checklist item.

Checklist Item No. 14: Telecommunications services are available for resale in accordance with the requirements of Sections 251(c)(4) and 252(d)(3)

In its Statement, BST offers its tariffed retail telecommunications services for resale to other telecommunications carriers that will, in turn, sell such services to their end user customers. The Statement outlines specific limitations on resale generally (e.g., prohibition against cross-class selling) and on the resale of specific services (e.g., short-term promotions, grandfathered services, contract service arrangements, etc.). In the Statement, BST offers the wholesale discount of 14.8%, the discount established by the Commission for both residential and business customers as required by Order No. 97-189. These discounts, as well as the resale limitations, are consistent with this Commission's Order No. 97-189.

Mr. Milner testified that BST has developed technical service descriptions and the ordering, provisioning and maintenance procedures for 50 of its "top" retail telecommunications services. As of May 15, 1997, CLECs were reselling 596 of these services in South Carolina and 88,000 of those services in BST's region. Other retail services, although not actually ordered by CLECs to date, are functionally available for resale. Mr. Milner testified that BST has conducted tests to verify that these services can be resold at the appropriate discount and that a correct bill will be generated.

The Commission concludes that BST has satisfactorily satisfied the requirements of this final checklist item.

D. The Rates Contained in the Statement for Interconnection and Unbundled Network Elements Comply With Section 252(d)

BST's Statement incorporates rates from several sources. Where a rate was arbitrated in the BST-AT&T Arbitration, PSC Docket No. 96-358-C, the Commission's ordered rates were incorporated into the Statement. Where a rate was not arbitrated, BST relied on a number of sources, including existing tariff rates and rates used in interconnection agreements that BST voluntarily negotiated with other CLECs. Further, the Statement contains a true-up process that is consistent with the process established by the Commission in the BST-AT&T Arbitration. If rates are subsequently modified by the

Commission in a later proceeding, payments by CLECs will be adjusted retroactively to the new rates.

The Commission finds that the fact that the Statement includes rates that are subject to adjustment does not render the Statement non-compliant with the Act. MCI and AT&T argued, through their witness, Don Wood, that BST's Statement does not comply with checklist items (ii) (nondiscriminatory access to network elements) and (xiii) (reciprocal compensation arrangements) because the rates that have been set by this Commission for these items are subject to adjustment and were not derived directly by using a specific costing methodology.

From a legal standpoint, the Commission observes that the notion that a rate cannot comply with the checklist unless it is "permanent" is not supported by the Act. Simply put, there is nothing in Sections 251, 252 or 271 that requires "permanent rates." The duration of the pertinent rates was simply not addressed by Congress. Indeed, the FCC itself recognized the appropriateness of "interim arbitrated rates" that "might provide a faster, administratively simpler, and less costly approach to establishing prices" First Report and Order, Docket No. 96-325 ¶ 767 (August 8, 1996). The FCC specifically adopted a schedule of interim proxy rates, and authorized the state commissions to apply them in their arbitration proceedings in the event the commissions were unable, due to time constraints, to set rates generated by the forward-looking costing methodology

described in the Order. States that set prices based upon the default proxies were required to order parties to update those prices after the state conducted or approved of a cost study that met the Order's pricing guidelines. Id. at ¶ 769.

With regard to the rates themselves, the Commission concludes that they are cost-based within the requirements of the 1996 Act. First, the rates in the Statement which are taken from the BST-AT&T Arbitration are well within the bounds of the TELRIC cost studies provided in that proceeding by BST and the Hatfield Model rates provided in that proceeding by AT&T. Also, many of the rates are within the FCC proxy rate ranges which brings them within the bounds of the cost information available to the FCC when it set these ranges. Finally, the negotiated rates incorporated into the Statement were certainly not set by the parties without reference to the cost of the services to be provided.

Notwithstanding the above, the rates may be adjusted following the review of additional cost information made available to the Commission and to other parties as of June 9, 1997. Since the rates will be adjusted as of their effective date and since the true up will be based on cost information, this Commission concludes that the interim rates in the Statement are cost-based within the requirements of the 1996 Act.

Even Dr. David Kaserman, an economist who has testified on behalf of AT&T and MCI in other proceedings, has acknowledged

that rate-setting is an ongoing process. In a recent Mississippi arbitration proceeding, Dr. Kaserman testified that "no rate is permanent; at no time is there perfect information." See, Mississippi Docket No. 96-AD-0559, February 10, 1997, Tr. p. 115. In further answering a cross examination question, he stated:

[W]e are not going to decide today permanent rates, and you won't decide in six months. I don't think there is any such thing as a permanent rate. You're going to be coming back and re-examining costs as long as this firm has a monopoly position and until the firm is deregulated. Whoever is in charge is going to be looking periodically at cost figures supplied by this firm to change the rates that are in place. That's going to be an ongoing process. And I think it's going to be around for a long time.

Id. (emphasis supplied).

That the Commission has not adopted a particular cost methodology or that the Commission may establish another docket to establish permanent rates does not make the Statement's rates non-compliant with Section 252(d). Section 252(d) requires that the rates for interconnection and unbundled network elements simply be based on cost; it does not specify what methodology this Commission must use. There is nothing in the Act that precludes the Commission from using one methodology in establishing initial cost-based rates, while utilizing a

different methodology to establish other cost-based rates at a later date. Indeed, because it is envisioned that the Statement will be updated in two years after its initial effective date, it is certainly possible that different methods will be used to meet the requirements of Section 252(d). In either instance, the rates would be cost based, which is all Section 252(d) requires.

As noted above, the true-up process followed by the Commission in the BST-AT&T Arbitration and included by BST in its Statement is analogous to that advocated by the FCC in its August 8, 1996 Local Interconnection Order. The FCC examined cost data from a number of cost proxy models and other sources and set in place a schedule of proxy rates which State commissions were authorized to apply until a State commission could set rates "on the basis of an economic cost study" Id., ¶ 787. These rates did not spring from a single source or a single methodology. Obviously, the FCC believed that these rates were permissible under the Act, since it expressly authorized State commissions to apply them in meeting their arbitration obligations under the 1996 Act.

Notwithstanding the Intervenor's claim to the contrary, grafting a permanent rate requirement into the Act is neither logical nor necessary from a practical standpoint. The notion that rates must be immutable to satisfy Section 271 would effectively mean that no rates could ever be good enough. There is nothing unique about uncertainty with respect to rates. To

the contrary, experience to date in implementing the Act demonstrates the inherent uncertainty in these changing times. Nevertheless, parties have utilized this process to enter the market. Indeed, the Commission notes that ACSI and BellSouth have voluntarily entered into an approved interconnection agreement in South Carolina that contains interim rates subject to true-up. Having found the true-up process appropriate for both the ACSI and AT&T interconnection agreements with BST, the Commission sees no reason to disapprove BST's Statement because it, too, contains interim rates.

In addition to being legally unsupported, the Intervenor's argument that BST's Statement cannot satisfy Section 252(d) until new cost studies have been completed and permanent rates have been set is completely incompatible with Congress's desire to "open all telecommunications markets to competition."

Thus, the Commission rejects the notion that interim rates are necessarily insufficient to satisfy Section 271. Once the Commission examines the further costs underlying the items offered in the Statement, adjustments may be made to the rates, in the Statement.

However, MCI raised a concern that competition in the local markets of BellSouth might be chilled because the possibility of an upward adjustment in an interim rate. Therefore, to assure potential competitors that they would not be harmed by such an upward adjustment, the Commission concludes that any UNE or

interconnection established under an interim rate shall be capped under such rate. Any such arrangements may only be adjusted downward. Of course, any downward adjustment will be retroactive to the date the interconnection was established or the UNE was placed in service. The Commission concludes that this procedure will actually encourage early entry into the local market because potential competitors will want to take the largest possible advantage of the capped interim rates.

E. Service Quality Issues are Appropriately Addressed as Enforcement Issues and Not as Part of BST's Compliance With the Checklist.

Sprint's witness Melissa Closz and ACSI witness Jim Falvey complained about service problems allegedly encountered by these CLECs companies in other states. It is worth noting that there is no evidence in this record of any service problems in South Carolina. The Commission further observes that complaints do not rise to the level of proof. ACSI has filed a formal complaint with the FCC and Georgia Public Service Commission and no ruling has been issued in those proceedings. Ms. Closz conceded that Sprint has not even filed a complaint or otherwise sought legal redress for the alleged problems she noted in her testimony.

Even if there were actual proof in this record of inferior service by BST, this proof would be irrelevant to BST's compliance with its duty under Sections 251, 252(d) and the competitive checklist to made functions, capabilities and services available to CLECs. No one disputes that the issue of

service quality is an extremely important one; it simply has no place in this proceeding. Congress recognized that enforcement of the RBOC's obligations under the Act was an important issue and addressed this concern in Section 271. Immediately following the provisions in the Act dealing with the FCC's standard of review, including the express prohibition against Commission expansion of the competitive checklist (Section 271(d)(4)), Congress provided for enforcement of the RBOC's continuing obligations under Section 251, including an expedited complaint process and severe penalty provisions. Section 271(d)(6) provides:

(A) COMMISSION AUTHORITY.--If at any time after the approval of an application under paragraph (3), the Commission determines that a Bell operating company has ceased to meet any of the conditions required for such approval, the Commission may, after notice and opportunity for a hearing --

- (i) issue an order to such company to correct the deficiency;
- (ii) impose a penalty on such company pursuant to title V; or
- iii) suspend or revoke such approval.

(b) RECEIPT AND REVIEW OF COMPLAINTS.--The Commission shall establish procedures for the review of complaints concerning failures by Bell Operating companies to meet conditions required for approval under paragraph (3). Unless the parties otherwise agree, the Commission shall act on such complaint within 90 days.

47 U.S.C. § 271(d)(6). The FCC complaint processes and penalties are, of course, in addition to remedies available under federal and state antitrust laws (including injunctive awards and awards

of treble damages and attorneys fees), as well as recourse before the state public service commissions.

F. The Public Interest Favors Allowing BSLD to Enter the InterLATA Long Distance Market in South Carolina Market in South Carolina.

Before authorizing BOC entry into the in-region interLATA market, the FCC also determine that "the requested authorization is consistent with the public interest, convenience, and necessity." 47 U.S.C. § 271(d)(3)(C). Although the Act does not oblige this Commission to render a recommendation in this respect, the Commission notes that in a Nov. 20, 1996 speech to NARUC, then-FCC Chairman Reed Hundt stated that State commissions will have a role in the FCC's public interest determination. Having carefully considered the positions of the parties on this issue, this Commission will also advise the FCC that BST's entry into the interLATA market in South Carolina is in the public interest.

BSLD's entry into the interLATA market in South Carolina would lead to increased long distance competition and more choices for consumers, which is in the public interest. Dr. Taylor testified that South Carolina customers could see the market price for long distance services decrease by 25% within one year of BSLD entry. Dr. Taylor computed savings to be a minimum of \$9.00 and a maximum of \$14.00 increase in the consumer surplus of South Carolina customers. Dr. Raimondi estimated that a 25% reduction in the market price of long distance service in

South Carolina over a five-year period could lead to the creation of almost 13,000 jobs and an increase of almost \$1.2 billion in gross state product. These results were unrefuted by the Intervenor.

Although Section 271's public interest inquiry is not specifically defined, the Senate Committee that first drafted this standard explained that "the public interest, convenience, and necessity standard is the bedrock of the 1934 [Communications] Act, and the Committee does not change the underlying premise through the amendments contained in this bill." S. Rep. No. 23, 104th Cong., 1st Sess. 44 (1995). The FCC has long interpreted the Communications Act's public interest standard as establishing a strong presumption in favor of new entry and the provision of new technologies, services, and products. See, Washington Utilities & Trans. Comm'n v. FCC, 513 F.2d 1142, 1155 & 1168 (9th Cir. 1975); Hawaiian Tel. Co. v. FCC, 498 F.2d 771 (D.C. Cir. 1974); MTS-WATS Market Structure Inquiry, 81 FCC 2d 177, 200 (1980).

BSLD will be a new entrant into the South Carolina long distance market, and its entry will require that BSLD introduce new services and products in order to compete successfully against the incumbent long distance carriers. To overcome the long-standing presumption in favor of new entry, the opponents of BSLD's request for interLATA authority in South Carolina must provide a detailed, factual showing that competitive harm is

likely to result from such entry, despite the FCC's and this Commission's regulation of BSLD's actions in both the local and long distance markets. Intervenors in this proceeding have failed to make such a showing.

In apparent recognition of the benefits of BSLD's entry into long distance, many of the Intervenors tried to shift the public interest inquiry to the local exchange market, alleging that competition in the local market will be jeopardized if BST is permitted to compete for long distance customers "prematurely." For example, Mr. Wood, sponsored by AT&T and MCI, testified that some sort of "effective competition" test must exist in wire centers across South Carolina before long distance entry is in the public interest. In fact, to adopt these proposed standards would be an illegal addition to the checklist requirements. The Intervenors attempt to justify this requirement by arguing that, otherwise, BST will cease complying with its statutory obligations to keep its local market open once long distance authority is granted and engage in various hypothetical "bad acts" that state and federal regulatory authorities will be powerless to prevent. Congress's debates concerning BOC entry into long distance underscore the existence of an open local market -- not the existence of some level of local competition -- as the key to unlocking the long distance business to BOC competition. Intervenors would render Congress's local market

regulatory scheme and the roles of the FCC and state commissions superfluous.

Even if Congress had not expressly prohibited doing what Intervenor seek to do in this proceeding--adding some sort of "effective competition" test to Section 271--such a test would not benefit the public, because the Commission finds that BSLD's entry into long distance will have no adverse affect on local competition. Intervenor's contention that BSLD's long distance entry should be delayed until "effective competition" emerges in wire centers across South Carolina is based on the assertion that without the "carrot" of long distance before it, BST will ignore its statutory and contractual obligations to keep its local market open. The Intervenor's purported concern that, upon receiving authority to enter the long distance market, BST can and will ignore the checklist, as well as Sections 251 and 252, presupposes that regulators (including this Commission) will be powerless to doing anything about it.

This argument is seriously flawed. First, Intervenor's argument ignores the fact that the incentives created by Section 271 to open the local exchange are continuing. As Mr. Varner testified, BSLD's provision of long distance service is contingent on continued compliance with all the provisions of Section 271, including the competitive checklist. As BSLD's ability to provide long distance service becomes more important in meeting customer needs, as is likely, it would be illogical

for BST to create any opportunity for a CLEC to challenge BSLD's legal ability to provide such service based on its failure to comply with the checklist. Thus, BST's incentive to continue to comply with the checklist is likely to increase over time, not decrease.

Second, just as BSLD's provision of long distance service will not diminish its obligations under the checklist, it also will not diminish its obligations under Sections 251 and 252 of the Act, South Carolina law, FCC and Commission regulations and its binding interconnection agreements. As Mr. Varner observed, these legal obligations and safeguards do not go away once interLATA entry is granted.

In fact, Mr. Varner further stated that long distance entry will invoke additional safeguards that affect the local market under Section 272. Section 272 contains safeguards that, among others, essentially prohibit BST from discriminating in favor of its long distance affiliate. Thus, Section 272 requires Bell companies to "treat all other entities in the same manner as they treat their [long distance] affiliates, and [to] provide and procure goods, services, facilities and information to and from those other entities under the same terms, conditions and rates." See, Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended, CC DKT No. 96-149, at ¶¶ 198, 202 (rel. Dec. 24, 1996). The FCC believes that "sufficient mechanisms ... exist within the 1996

Act both to deter anticompetitive behavior and to facilitate the detection of potential violations of section 272 requirements."

Id. at ¶ 321. (emphasis added).

Moreover, as explained by Dr. Taylor, BOCs have participated in markets adjacent to the local exchange, including long distance markets, without competitive harm. For example, BOCs compete with unaffiliated providers of cellular service that depend on local market interconnection for the success of their service. Further, this Commission takes note that substantial areas of South Carolina are served by ILECs which provide both local and long distance services. There have never been allegations that any of the customers of these companies or their long distance competitors have been subjected to any acts of competitive harm.

Delaying BSLD's entry into long distance until the intervenors are satisfied that "effective competition" exists in the local market will only serve to delay the benefits of vigorous long distance and local competition. The entities with the financial and marketing resources to provide effective local competition are the same IXC's that have a direct financial interest in delaying BSLD's competing in their long distance market.

The Commission believes that local competition may speed up considerably upon the lowering of the barriers to BSLD competing for long distance business. Lowering this barrier will create

real incentives for the major IXCs to enter the local market rapidly in South Carolina, because they will no longer be able to pursue other opportunities secure in the knowledge that BSLD cannot invade their market until they build substantial local facilities. Since the intervenors have not established any plan to compete for both residence and business customers in South Carolina, we conclude that this decision is the last avenue open to this Commission to encourage local competition as well as long distance competition. Thus, this decision will also foster real investment by AT&T, MCI, and others in the local market in South Carolina. Allowing BSLD to provide long distance service to South Carolina consumers is in the public interest since it would accomplish Congress's objective of fostering competition in all telecommunications markets.

The Commission must address one procedural matter regarding evidence offered at the hearing. At the conclusion of its case, BellSouth moved to introduce 87 binders of information regarding BellSouth's compliance with the 14-point competitive checklist of the Act, as part of Hearing Exhibit 12. Counsel for AT&T, MCI and Sprint opposed the introduction of the binders, arguing that BellSouth had not submitted the information in support of its application or relied on the information during its case. BellSouth countered that the information had been supplied during the course of discovery in this Docket and was intended to complete the present record. The Commission finds that

introduction of the 87 binders would not be appropriate. As the applicant for in-region long distance service, BellSouth bears the burden under the Act of presenting all relevant evidence to allow the Commission and opposing parties to evaluate its application. BellSouth did not include the material as part of its application to the Commission, and did not use the binders to support the testimony of its witnesses. Accordingly, the Commission declines to accept the 87 binders into evidence.

IT IS THEREFORE ORDERED THAT:

1. BST's Statement of Generally Available Terms and Conditions filed herein shall be modified to incorporate the following language: "The Statement shall be subject to revision to the extent necessary to comply with any final legislative, regulatory or judicial orders or rules that affect the rights and obligations created by the Statement."

2. BellSouth's Statement of Generally Available Terms and Conditions filed herein shall be modified to provide that any local interconnection established or UNE placed in service prior to the rate true-up shall be capped at the interim rate. The rate of each such interconnection arrangement or UNE may only be adjusted downward as a result of the true-up process. Any downward adjustment for an interconnection arrangement or UNE in service prior to the true-up shall be adjusted retroactively to

the date such UNE was placed in service or the date such interconnection arrangement was established.

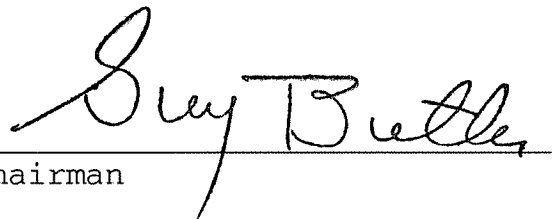
3. The Commission approves BST's Statement of Generally Available Terms and Conditions, as modified above, under Section 252(f) of the Act. BST shall file ten (10) copies of its modified SGAT with the Commission within seven (7) days of receipt of this Order.

4. BST's Statement satisfies the 14-point competitive checklist in 47 U.S.C. § 271(c)(2)(B).

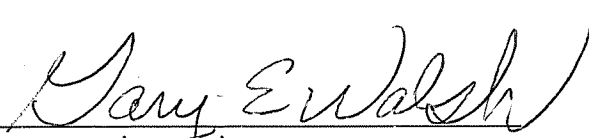
5. The Commission finds that BSLD's entry into the interLATA long distance market in South Carolina is in the public interest.

6. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Deputy Executive Director

(SEAL)